

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>JUAN DELGADO,</b>	)	
Petitioner,	)	<b>C.A. No. 19-225 Erie</b>
	)	
v.	)	<b>District Judge Susan Paradise Baxter</b>
	)	<b>Magistrate Judge Richard A. Lanzillo</b>
<b>WARDEN OF FCI MCKEAN,</b>	)	
Respondent.	)	

**MEMORANDUM ORDER**

This action for habeas corpus relief was received by the Clerk of Court on August 13, 2019. In his habeas petition, Petitioner seeks relief under 28 U.S.C. § 2241, pursuant to the “savings clause” of 28 U.S.C. 2255(e), which allows a federal prisoner to challenge the validity of his underlying conviction where it “appears that the remedy by [§2255 petition] is inadequate or ineffective to test the legality of his detention.” The petition was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

On April 23, 2020, Magistrate Judge Lanzillo issued a Report and Recommendation (“R&R”) recommending that the petition be dismissed because it fails to satisfy the requirements of 28 U.S.C. § 2255(e). [ECF No. 11]. In particular, Judge Lanzillo concluded that Petitioner has failed to claim that he was convicted of conduct that was subsequently decriminalized by a change in the law, which is the first of two conditions that must be satisfied by a federal prisoner in order to take advantage of § 2255’s savings clause under In re Dorsainvil, 119 F.3d 245,251 (3d Cir. 1997) (Id. at p. 6). Petitioner has not filed any Objections to the R&R.

Thus, after *de novo* review of the petition and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 19th day of May, 2020,

IT IS HEREBY ORDERED that the within petition for a writ of habeas corpus is DISMISSED, with prejudice, and the report and recommendation of Magistrate Judge Lanzillo, issued on April 23, 2020 [ECF No. 11], is adopted as the opinion of this Court. As there are no further matters pending before the Court relative to the instant petition, the Clerk is directed to mark this case "CLOSED."

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with the first name "Susan" being the most prominent.

SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
United States Magistrate Judge

All parties of record